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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/387,696	08/31/1999	GEORGE GOICOECHEA	BSI-212	2901

7590 06/20/2007
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EXAMINER

BLANCO, JAVIER G

ART UNIT	PAPER NUMBER
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3738

MAIL DATE	DELIVERY MODE
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06/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/387,696
Filing Date: August 31, 1999
Appellant(s): GOICOECHEA ET AL.

**MAILED
JUN 20 2007
GROUP 3700**

George Goicoechea et al.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed March 6, 2007 appealing from the Office action mailed July 5, 2006.

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(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The following are the related appeals, interferences, and judicial proceedings known to the examiner, which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

a. Interference No. 104,083

1) March 10, 1999, Judgment in Martin v. Cragg and Dake

b. Interference No. 104,192 (Application No. 08/461,402)

1) July 27, 2001, Final Decision and Judgment in Craggv. Martin v. Fogarty

2) March 31, 2006, Memorandum Opinion and Final Judgment, U.S. District Court for the District of Columbia, in an appeal from the Board's decision in Interference No. 104,192.

c. Interference requested (Application No. 10/616,274)

1) An Interference was requested with U.S. Patent No. 6,416,542 on August 21, 2006.

2) Pursuant to the August 21, 2006 petition, the PTO suspended further action on the application on November 8, 2006 for 6 months.

3) No Interference has been declared at the present time.

d. Appeal

1) Appeal from the Final Judgment of the U.S. District Court regarding an Interference No. 104,192 filed with the U.S. Court of Appeals for the Federal Circuit,

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Docket No. 06-1434. The U.S. Court of Appeals for the Federal Circuit has not yet rendered a decision.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments contained in the brief is correct.

(5) *Summary of Claimed Subject Matter*

The summary of claimed subject matter contained in the brief is correct.

(6) *Grounds of Rejection to be Reviewed on Appeal*

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) *Claims Appendix*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) *Evidence Relied Upon*

WO 92/06734 A1	Song	04-1992
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US 5,639,278	Dereume et al.	07-1997
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(9) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

- a. Claims 54 and 57 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Song (WO 92/06734 A1).

As seen in Figures 1-3 and 6, Song discloses a tubular prosthesis being axially divided into two or more hoop-like tubular portions (unit structures 11, 12, 13, and 14, or, unit structures 21, 22, 23, and 24) formed from corrugated portions of two or more wires or filaments (each unit

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structure is described as a wire “formed into a closed zig zag configuration thereby forming a series of straight sections 111 and bends 112”; see Figure 1; see page 5, lines 17-23) and connected by straightened extension portions (connecting members 31, 33, 35, and 37; see Figures 2 and 3; see page 6, lines 2-7) that could be placed diagonally (skew or in a helical path) along the longitudinal axis of the tubular prosthesis (see Figures 2 and 3; see page 6, lines 7-12).

b. Claim 58 is rejected under 35 U.S.C. 103(a) as being unpatentable over Song (WO 92/06734 A1) in view of Dereume et al. (US 5,639,278; cited in Applicants’ IDS).

Song et al. discloses the invention as claimed except for particularly disclosing his/her endovascular prosthesis as a forked prosthesis comprising a generally tubular main branch and at least two secondary branches extending from said main branch. However, this is already known in the art, and it depends on the intended use. For example, Dereume et al. disclose (see Figures 20-28) a forked prosthesis comprising a generally tubular main branch and at least two secondary branches extending from said main branch in order to treat a condition in a bifurcated body vessel location (see Abstract; see entire document). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have combined the teaching of a forked prosthesis comprising a generally tubular main branch and at least two secondary branches extending from said main branch, as taught by Dereume et al., with the tubular prosthesis of Song, in order to treat a condition in a bifurcated body vessel location.

(10) Response to Argument

Regarding 102(b) rejection based on Song (WO 92/06734 A1):

a. With regards to claims 54 and 57, the Applicants argue that Song “fails to disclose a structure in which wires or filaments each have one or more corrugated portions”. The Examiner

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respectfully disagrees. The two or more hoop-like tubular portions disclosed by Song are formed from corrugated portions of two or more wires or filaments (each unit structure is described as a wire “formed into a closed zig zag configuration thereby forming a series of straight sections 111 and bends 112”; see Figure 1; see page 5, lines 17-23). Song clearly teaches said subject matter (see Figures 1-3 and 6). Further, the Applicants argue Song does not disclose “and at least some of said wires or filaments having one or more generally straightened extension portions”. The claim language does not require the “generally straightened extension portions” to be part of the same discrete wires. Connecting members 31, 33, 35, and 37 are therefore “extension portions”.

Regarding 103(a) rejection based on over Song (WO 92/06734 A1) in view of Dereume et al. (US 5,639,278):

a. The Applicants argue Song does not disclose “and at least some of said wires or filaments having one or more generally straightened extension portions”. The claim language does not require the “generally straightened extension portions” to be part of the same discrete wires.

Connecting members 31, 33, 35, and 37 are therefore “extension portions”.

For the above reason, it is believed that the rejection should be sustained.

(11) Related Proceeding(s) Appendix

Copies of the court or Board decision(s) identified in the Related Appeals and Interferences section of this examiner’s answer are provided herein.

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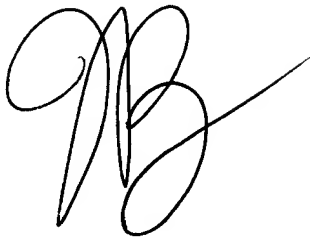
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Respectfully submitted,

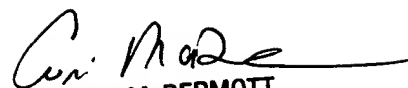
Javier G. Blanco

June 13, 2007

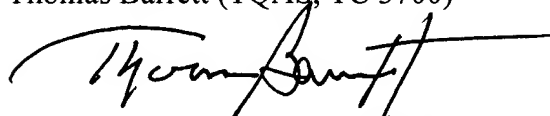
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